

APPENDIX G

UNITED STATES DISTRICT COURT
EASTERN DISTRICT

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ROSS UNIVERSITY MEDICAL SCHOOL

Plaintiff,

Index No. 09CV01410

-against-

BROOKLYN-QUEENS HEALTH CARE AND
WYCKOFF HEIGHTS MEDICAL CENTER,

Defendants.

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374 Stockholm Street
Brooklyn, New York 11237

July 5, 2011
10:00 a.m.

EXAMINATION BEFORE TRIAL
of EMIL RUCIGAY, a Defendant, by
George J. Tzanetopoulos, pursuant
to Article 31 of the Civil Practice
Law & Rules of Testimony, and
Notice, held at the above-mentioned
time and place, before Paul
Goldstein, a shorthand reporter and
Notary Public in and for the State
of New York.

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2 APPEARANCES:

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6 BAKER HOSTETLER, LLP
Attorneys for the Plaintiff
7 191 North Wacker Drive
Chicago, IL 60606
8 BY: GEORGE J. TZANETOPOULOS
9 K&L GATES, LLP
Attorneys for the Defendants
10 599 Lexington Avenue
New York, New York 10022
11 BY: WALTER P. LOUGHLIN
12 WYCKOFF HEIGHTS MEDICAL CENTER
Office of General Counsel
13 374 Stockholm Street
Brooklyn, New York 11237
14 BY: DAVID N. HOFFMAN
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2 Rule, during the course of the examination
3 persons In attendance shall not make
4 statements or comments That interfere with
5 the questioning.

6 THAT a deponent shall answer all
7 questions at A deposition, except (i) to
8 preserve a privilege or Right of
9 confidentiality, (ii) to enforce 'a
10 Limitation set forth in an order of a court,
11 Or (iii) when the question is plainly
12 improper And would, if answered, cause
13 significant Prejudice to any person. An
14 attorney shall Not direct a deponent not to
15 answer except as Provided in CPLR Rule 3115
16 or this Subdivision. Any refusal to answer or
17 Direction not to answer shall be accompanied
18 By a succinct and clear statement of the
19 basis Therefore. If the deponent does not
20 answer a Question, the examining party shall
21 have the Right to complete the remainder of
22 the Deposition.

23 THAT an attorney shall not interrupt the
24 Deposition for the purpose of communicating
25 With the deponent unless all parties consent

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2 STIPULATIONS:

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4 IT IS HEREBY STIPULATED AND AGREED by and
5 Between the attorneys for the respective
6 parties Herein, and in compliance with Rule
7 221 of the Uniform Rules for the Trial
8 Courts:

9 THAT the parties recognize the provision
10 of Rule 3115 subdivisions (b), (c) and/or
11 (d). All Objections made at a deposition
12 shall be noted by The officer before whom the
13 deposition is taken, And the answer shall be
14 given and the deposition Shall proceed
15 subject to the objections and to the Right of
16 a person to apply for appropriate relief,
17 Pursuant to Article 31 of the CPLR.

18 THAT every objection raised during a
19 Deposition shall be stated succinctly and
20 framed so as not to suggest an answer to the
21 deponent and, at The request of the
22 questioning attorney, shall Include a clear
23 statement as to any defect in form Or other
24 basis of error or irregularity. Except to The
25 extent permitted by CPLR Rule 3115 or by this

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2 Or the communication is made for the purpose
3 Of determining whether the question should
4 not Be answered on the grounds set forth in
5 Section 221.2 of these rules and, in such
6 Event, the reason for the communication shall
7 be stated for the record succinctly and
8 Clearly.

9 THAT failure to object to any question or
10 To move to strike and testimony at this 5J
11 Examination shall not be a bar or waiver to
12 Make such objection or motion at the time of
13 the trial of this action, and is hereby
14 Reserved; and

15 THAT this examination may be signed and
16 Sworn to by the witness examined herein
17 before any Notary Public, but failure to do
18 so or to Return the original of the
19 examination to the Attorney on whose behalf
20 the examination is Taken shall not be deemed
21 a waiver of the rights provided by Rules 3116
22 and 3117 of the CPLR, and shall be controlled
23 thereby, and THAT certification and filing of
24 the Original of this examination are waived;
25 and

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2 THAT the questioning attorney shall
3 Provide counsel for the witness examined
4 Herein with a copy of this examination at no
5 charge.

1 RUCIGAY
2 The Witness herein, having been first
3 duly sworn by Paul Goldstein, a Notary Public
4 in and for the State of New York, was
5 examined and testified as follows:
6 EXAMINATION BY
7 MR. TZANETOPOULOS:
8 Q. This is the continued deposition of
9 Emil Rucigay.
10 Mr. Rucigay, I am asking questions
11 this morning.
12 If there's anything you don't hear or
13 don't understand, please let me know, and
14 I'll repeat it or rephrase it.
15 When we were together for the first
16 session of your deposition, we talked about
17 folks from FTI serving as a restructuring
18 consultant.
19 Do you recall that?
20 A. Yes, sir.
21 Q. At some point, did any of BQHC, or
22 its related entities, take steps to terminate
23 FTI?
24 A. Did who, do what?
25 Q. Did Brooklyn Queens Health Care, or

1 RUCIGAY
2 any of its affiliated entities take steps to
3 terminate FTI?
4 A. Yes, we did.
5 Q. What was done?
6 A. We had Singleton replaced -- I don't
7 know the date and so forth, but his services
8 were terminated.
9 Q. Who made the decision to terminate
10 FTI?
11 A. I am not certain, but it was the
12 consensus, I believe, of the Executive
13 Committee and the Board.
14 Q. Before FTI was terminated, did any of
15 your hospital entities confer with any
16 government authorities?
17 A. I believe I may have spoken with
18 Commissioner Daines.
19 Q. Why is it that the hospital entities
20 decided to terminate FTI?
21 A. I cannot give you specifics, but I
22 believe the finances were not improving, and
23 that was the basis for it.
24 Q. Let's go back and talk about your
25 conversation with Commissioner Daines.

1 RUCIGAY
2 In substance, who said what to whom
3 in that conversation?
4 A. In essence, I mentioned to him that
5 the finances were not improving at Wyckoff or
6 Caritas, and that Singleton's services should
7 be terminated.
8 Q. What was the Commissioner's response?
9 A. He said "Okay, but don't make a
10 mistake."
11 Q. What did you take him to be referring
12 to, when he said not to make a mistake?
13 A. By getting a proper replacement.
14 Q. With whom did you replace FTI?
15 A. Eventually, we got John Lavan and his
16 firm involved.
17 Q. And, at any time after FTI was
18 terminated, did anyone on behalf of Brooklyn
19 Queens Health Care, or any of its affiliated
20 entities, contact Ross to inform Ross, that
21 the contract signed by Mr. Singleton, or
22 Mr. Goldberg, were unauthorized?
23 A. I have no idea.
24 Q. Did you do so?
25 A. I don't believe I did.

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RUCIGAY

Q. Did you ask anybody else to do so?

A. I don't believe so.

Q. At any time after FTI was terminated, did Brooklyn Queens Health Care, or anyone on behalf of Brooklyn Queens Health Care or its affiliates, offer to return money that Ross had paid under those same contracts?

A. No, sir. Not to my knowledge.

Q. Did any of the affiliated entities suffer any negative consequences from a governmental agency, as a result of terminating FTI?

MR. LOUGHLIN: Objection, form. Can you be more specific?

MR. TZANETOPOULOS: Sure. Let me try again.

Q. Did any state agency do anything negative to the hospitals, or any of the affiliated entities, as a consequence of terminating FTI?

A. I have no idea.

Q. Mr. Rucigay, have you ever had communications with anybody at Ross?

A. No.

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RUCIGAY

MR. TZANETOPOULOS: Pat, can I have you put the documents that I mailed to you, in front of Mr. Rucigay?

MR. LOUGHLIN: Sure. Maybe we should have them marked (handing.).

(Whereupon, a group of documents were marked for identification as Plaintiff's Exhibits 17 through 26.)

Q. Mr. Rucigay, let me direct your attention to a document that the court reporter has marked as Exhibit 17.

It's titled, "Brooklyn Queens Healthcare Inc., Wyckoff Heights Medical Center, Caritas Health Care, Inc., Joint Meeting of the Boards of Trustees/Directors."

It has been marked with Identification Numbers BQHC-53390 through 53393.

A. Okay.

Q. Mr. Rucigay, are these, in fact, a copy of the minutes?

A. I believe so.

Q. And, again, you can look at that document as much as you'd like.

RUCIGAY

I just have a very brief question on Page 3.

A. Go ahead.

Q. Under Section 6, headed, "Executive Session," there's reference to a discussion about concerns -- concerning the performance of FTI Cambio.

Is this the meeting, at which, the Boards decided to terminate FTI?

A. I have no idea. I don't know.

Q. You'll see referenced in that same section of the minutes to the resolution annexed hereto as Exhibit A.

A. Yes, go ahead.

Q. Are Exhibits 18 and 19, those resolutions?

A. Apparently.

Q. Mr. Rucigay, let me direct your attention to a document that the court reporter has marked as Exhibit 20, please.

A. Yes.

Q. That document looks like a draft letter to James Clyne, stamped with Identification Numbers BQHC-12639 and 12640.

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RUCIGAY

A. Yes.

Q. Did you, in fact, send a letter like this to Mr. Clyne?

A. Yes.

Q. Is there a final version of that letter somewhere in the hospitals?

A. I don't know.

Q. Did you receive a response from Mr. Clyne?

A. I don't know, but I presume I did. I don't know.

Q. Mr. Rucigay, let me direct your attention, please, to the document that the court reporter has marked as Exhibit Number 21.

A. Yes.

Q. It has been stamped with Identification Numbers BQHC-12483 through 12485.

A. Yes.

Q. If I may direct your attention to the last page where the signature blocks are.

A. Yes.

Q. This one is not signed.

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RUCIGAY

Did, in fact, the hospitals enter into an extension similar to Exhibit 21?

A. I'm sorry. I don't follow that.

Q. The copy I have is not executed.

Is there a signed version of this contract?

A. I have no idea.

Q. Let me direct your attention to Exhibit 22.

A. Yes.

Q. Exhibit 22 has been marked with Identification Numbers BQHC-12618 through 12638.

A. Yes.

Q. Again, on the last page, you'll see that this version is unsigned.

A. That is correct.

Q. Did Brooklyn Queens Health Care /Caritas Health Care and Wyckoff Heights Medical Center, enter into a written contract with JL Consulting, LLC?

A. I believe we did. I'm not a hundred percent sure.

Q. Do you believe that the hospitals

RUCIGAY

A. Go ahead.

Q. On the last page of the exhibit, BQHC-14872, is that a photocopy of your signature, on behalf of Brooklyn Queens Health Care Inc. and Wyckoff Heights Medical Center and Caritas Health Care?

A. Yes.

Q. Mr. Rucigay, if I may direction your attention to Exhibits 25 and 26.

A. Yes. I have them here.

(BREAK FOR JURAT.)

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RUCIGAY

have a signed copy of this contract?

A. If one was signed, they should have one.

(Whereupon, an off-the-record discussion was held.)

Q. Let me direct your attention to Exhibit 23.

A. Yes.

(Whereupon, an off-the-record discussion was held.)

Q. Mr. Rucigay, let me direct your attention to Exhibit 23, please.

It is a letter directed to you, dated October 31 2008, bearing Identification Numbers BQHC-14867 through 14872.

The second page of the exhibit marked BQHC-14868 -- is that your signature on behalf of Brooklyn Queens Health Care and Wyckoff Heights Medical Center and Caritas Health Care?

A. Yes.

Q. On the last page of the exhibit --

A. It's a photocopy of my signature.

Q. Yes.

RUCIGAY

Q. Are those copies of Board Meeting minutes for the entities, and the dates listed on the first page of each exhibit?

A. Yes.

Q. Those are all the questions I have for Mr. Rucigay.

(Whereupon, the deposition of Emil Rucigay was concluded at 10:43 a.m.)

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I have read the foregoing record of my testimony taken at the time and place noted in the above heading hereof, and I do hereby acknowledge it to be a true and correct transcript of the same.

EMIL RUCIGAY

Signed and subscribed to before me this ____ day of _____, 20__

NOTARY PUBLIC

18

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EXHIBIT INDEX

Plaintiff's Exhibit	Page
17 Minutes, Board Meeting 9/24/08	11
18 Resolutions, Wyckoff Board 9/24/08	12
19 Resolutions, Caritas Board 9/24/08	12
20 Letter, Rucigay to Clyne 9/25/08	12
21 Letter, FTI to Rucigay 9/30/08	13
22 Administrative Services Agreement	14
23 Letter, FTI to Rucigay 10/31/08	15
25 BQHC Board Minutes 1/8/09	16
26 BQHC Redacted Board Minutes 3/5/09	16

ERRATA SHEET

CORRECTION	PAGE	LINE
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CERTIFICATION

I, PAUL GOLDSTEIN, a shorthand reporter and Notary Public within and for the State of New York, do hereby certify:

That the witness(es) whose testimony is herein before set forth was duly sworn or affirmed by me, and the foregoing transcript is a true record of the testimony given by such witness(es).

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

PAUL GOLDSTEIN